GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Social Welfare Department – Appeal petition filed by Sri A. Krishna S/o A. Appalaswamy, Occ: Retired Superintendent, O/o Social Welfare Department, Visakhapatnam District- against the proceedings (M) D.Dis.No.433/2010/C5, dated 27.01.2014 of the District Collector, Visakhapatnam-under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

SOCILA WELFARE (CV.1) DEPARTMENT

G.O.Ms.No. 39 Dated: 10.04.2018

Read the following:

1. Proceedings of the Dist. Collector, Visakhapatnam, (M).Dis.No. 433/2010/C5, dated:27.01.2014.
2. Appeal Petition of Sri. A.Krishna, S/o A. Appala Swamy Retired Superintendent, O/o. Social Welfare Dept., D.No.9-282 Narasimhanagar, Gopalapatnam, Visakhapatnam Dist., dt:10.04.2014.
3. Govt. Memo No.4534/CV.1/2014, dated 28.04.2014.
4. From the District Collector, Visakhapatnam, Lr. (M) Rc.No.433/2010 C5, dated .05.2015 & 10.05.2015.
5. Govt. Memo No.4534/CV.1/2014, dated 17.11.2015, 29.04.2016, 30.11.2016 & 11.01.2017.
6. Govt. Memo No.4534/CV.1/2014, dated 24.05.2017.

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ORDER:

In the reference 1st read above, the District Collector, Visakhapatnam has issued orders canceling the SC–Madiga caste certificates obtained from the Revenue Authorities of Visakhapatnam by Sri A. Krishna S/o A. Appalaswamy and his family members.

2. In the reference 2nd read above, Sri A. Krishna S/o A. Appalaswamy has filed an Appeal Petition before the Government, against the proceedings of the District Collector, Visakhapatnam. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for parawise remarks and connected records from the District Collector, Visakhapatnam in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Visakhapatnam has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri A. Krishna S/o A. Appalaswamy.

4. The said appeal petition has been posted for hearing on 28.11.2015, 14.05.2016, 24.12.2016, 24.01.2017 & finally on 17.06.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 5th & 6th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant/ Counsel for the appellant have attended for the hearing on 17.06.2017 and argued the case.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Visakhapatnam and proceedings of the District Collector, Visakhapatnam dated 27.01.2014, the Appellate Authority has observed that:

I. The appellant in his grounds has stated that he born to Sri Alajangi Appala Swamy and Mudhada Atchiyamma who are actually residents of Chintala Agraharam Village now in the jurisdiction of Pendurthi Mandal and Ex. Visakhapatnam Taluk during the year 1952 in Malaysia and as his parents

(P.T.O)

have no income to survive, they have migrated to Malaysia for livelihood long ago even prior to his birth and they were expired during the years 1969 and 1970 respectively. After the death of his parents, the appellant had returned to India along with his neighbour at Malaysia namely Sri Molleti Pydamma who belongs to Gavara Community during the year 1970 and married her daughter Chinnammulu during the year 1973. At the time of performing the above inter-caste marriage, the elders have made a decision to continue the caste of his father-in-law and mother-in-law to the children born to the appellant and his wife. As per the aforesaid situation, though the appellant belong to S.C. Madiga community, the appellant had obtained caste certificates to his children as belonging to GAVARA by noting at footnote that as per the conditions made by the elders at the time of my inter-caste marriage during 1973, the B.C. caste was adopted (Gavara) to them and the same not considered by the District Level Scrutiny Committee.

II. The District Level Scrutiny Committee has observed that the Revenue Divisional Officer, Visakhapatnam has reported that on a complaint filed against the individual, the Commissioner of Social Welfare Department, A.P., Hyderabad referred the case of the individual to the Inspector of Police, CID, PCR Cell, Visakhapatnam and after due enquiry in turn they filed a criminal case before II Metropolitan Magistrate, Visakhapatnam in CC No.735/1993 under Sec 420 of IPC to launch prosecution stating that the individual though belonging to “Gavara” community obtained a job under S.C. quota on 28.11.1976 as Typist in Social Welfare Department by producing false caste certificate issued vide R.Dis.No.9023/74 Dt.05.12.1974 from the erstwhile Tahsildar, Visakhpatnam and the learned magistrate has delivered his Judgment observing mainly therein that due to Non-Production of witness and proper documentary evidence by the Police (Prosecution), and Non- production of those documents shows that the prosecution miserably failed to prove the guilt of the accused for the offences u/s 420 of IPC and the circumstances gave rise to the benefit of doubt and the accused was acquitted . Further he has reported that as per the material, evidence made available before him, he opined that Sri Alajangi Krishna, S/o Late AppalaSwamy has no supported documents to prove his caste as S.C. Madiga except the caste certificate issued by the Tahsildar, Visakhapatnam on 05-12-1974, which was not produced by the prosecution before the Hon’ble Court. It is therefore proved that , beyond any responsible doubt that the individual Sri Alajangi Krishna, S/o Late AppalaSwamy belongs to “ Gavara” community only as evidence from the aforesaid facts. The DLSC has also observed that the appellant could not able to prove that his parents belong to ‘SC-Madiga caste’. Nor he had any relations with the Scheduled caste people in the surroundings. Not even he was born and brought up in those social conditions. Further, the appellant’s claim that, as per Rule 21 of G.O.Ms.No. 58, SW Dept., dt: 12.05.1997 provides that the community certificate issued by the competent authority prior to the commencement of these Rules should be treated as a valid certificate and the act of the District Collector, Visakhapatnam cancelling the community certificate issued to the appellant by the competent authority nearly (4) decades back totally without jurisdiction, is a wrong claim as the community certificate issued to genuine people can only be treated as valid one otherwise the District Collector , by suo-moto or on receipt of complaint, is competent to enquire into the genuinity of the community certificate. Finally , the District level Scrutiny Committee opined that the surname of the father only is inherited by the off – spring, it appears to be a story cooked up by the A.Krishna that his son and daughters inherited the mother’s surname “Molleti” and they are “Gavara” which is their mother ‘s caste and he belongs to SC-Madiga.

(Contd., on page.3)

This argument cannot be accepted given the socio – cultural milieu that we live in our society. Further there is no part of evidence available to prove that A. Krisahna's father & mother were SCs.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of hearing of the case that the appellant submitted his arguments as per his grounds in appeal petition and stated that the lower authority failed to observe that his father and mother belongs to Madiga community which was identified as Schedule Caste and they are illiterates and on that score alone he belongs to Madiga caste and further stated that he worked as employee of Social Welfare Department in the post reserved for SC and he retired from service. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and he failed to produce any evidence that his father and mother belongs to SC Community. That as per the act that the burden of proving that the appellant belongs to particular caste shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case that the appellant except relaying the above failed to produce any additional material more particularly the evidence of his father and mother caste for re-appreciation of the case on hand. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, Visakhapatnam. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri A. Krishna S/o A. Appalaswamy does not deserve any interference. Hence, Proceedings of the District Collector, Visakhapatnam issued vide (M).Dis.No. 433/2010/C5, dated:27.01.2014, is hereby upheld and the Appeal Petition filed by Sri A. Krishna S/o A. Appalaswamy, is hereby dismissed and the Certificate issued by the Revenue Authorities deemed to cancelled.

7. The District Collector, Visakhapatnam is directed to take necessary consequential action in the matter.

8. The records (containing (M) 433/2001/C5, page numbers: Vol-I, NF-12, CF-141 and Vol-2, NF-56, CF-349 CF) received from the District Collector, Visakhapatnam through in the reference 4th read above, are returned herewith in original to the District Collector, Visakhapatnam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To

The District Collector, Visakhapatnam.
(with original records) (BY RPAD)

(Contd., on page.4)

Sri. A.Krishna, S/o. A. Appalaswamy,
Retired Superintendent, O/o. Social Welfare Dept,
R/o. D.No. 9-282, Narasimhanagar, Gopalapatnam, Visakhapatnam

Sri D. Balakishan Rao, Advocate,
Off:16-2-701/6/14A2, 1st Floor, Opp: Krupa Market,
Beside Chermas Shop, Upstairs, Veerashiva Bank,
Malakpet, Hyderabad.

Copy to:

The Director of Social Welfare, A.P., Vijayawada.
The PS to Minister(SWE&TWE)
The P.S. to Prl. Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER